

ENDONET.023CP3
PATENT
OFFICIAL

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Johnson, et al

Appl. No. : 09/702002

Filed : 30-Oct-2000

For : METHOD AND DEVICE FOR
TREATING
GASTROESOPHAGEAL REFLUX
DISEASE

Examiner : Nikita R. Veniaminov

United States Patent and Trademark Office
P.O. Box 2327
Arlington, VA 22202

Declaration of James W. Hill, M.D.

Dear Sir:

I, James W. Hill, M.D., am an attorney with the law firm of Knobbe, Martens, Olson & Bear, LLP (the "Firm"), 2040 Main Street, Fourteenth Floor, Irvine, CA 92614, which is patent counsel for Medtronic, Inc. (formerly Endonetics, Inc.). I have worked for the Firm for four years as an associate attorney. I hereby declare under oath the following statements:

The subject patent application was assigned by the inventors to Endonetics, Inc. on March 28, 2001. This assignment was duly recorded in the United States Patent and Trademark Office ("PTO") on April 11, 2001. It is my understanding that in or around February, 2002, Endonetics, Inc. was acquired by Medtronic, Inc. ("Medtronic"), which thereby became the owner of the subject patent application.

On February 6, 2003, Examiner Nikita R. Veniaminov mailed a Notice of Abandonment in this application to the Firm, indicating that an Office Action had been mailed on July 31,

2002. Because the PTO received no response to the Office Action by the deadline of January 31, 2003, the subject application became abandoned on February 1, 2003. Neither I nor the Firm were ever aware of the existence of this Office Action until we were informed that the subject application had become abandoned.

On February 22, 2003, Examiner Veniaminov faxed to me a copy of the Office Action, which indicates that it had been mailed to Medtronic, Inc., 710 Medtronic Parkway, NE, Minneapolis, MN 55432. It was and is my understanding that Medtronic was not the proper correspondence address for this application. Furthermore, Medtronic's attorneys were not and are not the attorneys of record.

A Power of Attorney in this application, designating the Firm as the attorneys of record, had been filed on April 12, 2001. The PTO accepted this Power of Attorney in a Notice Regarding Power of Attorney mailed on August 3, 2001. In that Notice, the PTO wrote, "Correspondence in this application will be mailed to the above address as provided by 37 C.F.R. 1.33." That address (at that time) was Knobbe, Martens, Olson & Bear, LLP, 620 Newport Center Drive, Sixteenth Floor, Newport Beach, CA 92660.

After discussions with Examiner Veniaminov, Supervisory Examiner Eric Winakur, and Medtronic senior patent attorneys Thomas Woods and Steven Bauer, it is my conclusion that at no time has the Power of Attorney in this application changed since it was filed on April 12, 2001. That is, Knobbe, Martens, Olson & Bear, LLP was, and remains today, the attorney of record.

From my discussions with Medtronic's patent counsel and my discussions with Supervisory Examiner Winakur, it appears that a clerical error on the part of the PTO has occurred in this case. To my knowledge, and according to the statements made to me by Thomas Woods and Supervisory Examiner Winakur, neither Medtronic nor the Firm has initiated any action that should have resulted in a change in the Power of Attorney. The Firm's correspondence address has changed, but there is no apparent reason why the PTO should have

mailed the office action to Medtronic instead of to the proper attorneys of record (Knobbe, Martens, Olson & Bear, LLP).

I hereby declare that all statements made herein of my own knowledge are true, and all statements made on information and belief herein are believed to be true and are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statement may jeopardize the validity of this application or any granting of the application resulting therefrom.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 3/14/03

By: James W. Hill
James W. Hill, M.D.
2040 Main Street, 14th Floor
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